

APRIL 2002

*** CALIFORNIA UNDERGROUND STORAGE TANK RULEMAKING FILE**

*** SECTION 100**

*** CHAPTER 16, CHAPTER 3, TITLE 23**

*** SECTION 2712(e)**

**STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW**

In re:

STATE WATER RESOURCES CONTROL BOARD

REGULATORY ACTION:

Title 23, California Code of Regulations

Amend sections 2712(e)

**NOTICE OF APPROVAL OF CHANGE(S)
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,
section 100**

OAL File No. 02-0220-09 N

This action would change the frequency in which a local agency must inspect underground storage tanks within its jurisdiction from triennially to annually to conform to the amendment of section 25288 of the Health and Safety Code.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

DATE:



SHERRY A. KAUFMAN

Staff Counsel

for: DAVID B. JUDSON

Deputy Director/Chief Counsel

Original : Celeste Cantu, Executive Director

cc : Scott Bacon

DOCUMENT CONTROL ROUTE SLIP

Assigned to: 1. _____ 2. _____ 3. _____
4. _____ 5. _____ 6. _____

Exec. Control No: _____

Due Date: _____

Division Control Number: _____

To be signed by: C C

Approved By: _____ Date: _____

Must be mailed by: _____

Contact: Deanna Flanagin At: 341-5851

INCOMING/OUTGOING

To: David B. Judson, Deputy Director, Office of Administrative Law Date: _____

From: Celeste Cantu

Subject: Section 100 - Regulatory change without significant effect

Copies: _____

Coordinated with other divisions: _____
(CWP/date) (DAS/date) (DWQ/date) (DWR/date) (OCC/date) (OLPA/date)

COMMENTS/INSTRUCTIONS

SWRCB SIGNOFFS

ELH [Signature]

JGG [Signature] 1/30/02

BLE [Signature] 1/30/02

OCC _____

HMS _____

CC _____

PLEASE RETURN TO DEANNA FLANAGIN, CWP AFTER SIGNATURE FOR COPYING AND MAILING. THANKS

FOR EXECUTIVE OFFICE USE ONLY

_____ to DC: Approved _____
(date) (initials) (date)

_____ to WGP: Approved _____
(date) (initials) (date)

Needs Board Member Review: ☐ No ☐ Yes

Circulated on: _____ Responses due: _____

DISTRIBUTION: WHITE, Executive Office; GREEN, returned to Division after signature; YELLOW/PINK, Division Pend Copies; GOLDENROD, Executive Pend Copy FOR0089

STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW

MEMORANDUM

To: Scott Bacon

Date: 04/16/02

File# 02-0220-09 N

Phone: 916-323-6225

From: OAL Front Counter

Subject: RETURN OF APPROVED RULEMAKING MATERIALS

OAL hereby returns this Approved file your agency submitted for our review.

If this is an approved file, it contains a copy of the regulation(s) stamped "ENDORSED FILED" by the Secretary of State. The effective date of an approved file is specified on the date Form 400 (see item B.4) Note : The 30th Day after filing with the Secretary of State is calculated from the date Form 400 was stamped "ENDORSED FILED" by the Secretary of State.

DO NOT DISCARD OR DESTROY THIS FILE

Due to its legal significance, please retain this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that " ...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of ." See also the Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq.) regarding retention of your records. If you decide not to keep this rulemaking at your agency office or at the State Records Centre, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f)

enclosures

NON SUBSTANTIVE

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION REGULATIONS SUBMISSION

See instructions on reverse

For use by Secretary of State only

STD. 400 (REV. 4-99)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 020020-01N	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE APR - 3 2002 Office of Administrative Law		REGULATIONS 2002 FEB 20 PM 2:57 OFFICE OF ADMINISTRATIVE LAW	
AGENCY WITH RULEMAKING AUTHORITY State Water Resources Control Board			AGENCY FILE NUMBER (if any)

ENDORSED FILED
IN THE OFFICE OF

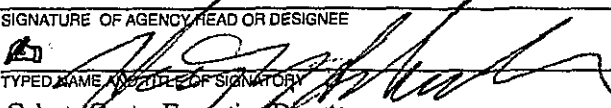
2002 APR -3 PM 2:29

Bill Jones
BILL JONES
SECRETARY OF STATE**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER ()	FAX NUMBER (Optional) ()
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Annual Inspection of Underground Storage Tanks		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)			
SECTION(S) AFFECTED (List all section number(s) individually)		ADOPT	
		AMEND	
TITLE(S) 23		REPEAL	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code, § 11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code, §§ 11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b)) <input type="checkbox"/> Emergency Readopt (Gov. Code, § 11346.1(h)) <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)			
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.9 prior to, or within 120 days of, the effective date of the regulations listed above.			
<input type="checkbox"/> Print Only <input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) <input type="checkbox"/> Other (specify)			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)			
5. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code, §§ 11343.4, 11346.1(d))			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> Effective other (Specify)			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal			
<input type="checkbox"/> Other (Specify)			
7. CONTACT PERSON Scott Bacon		TELEPHONE NUMBER (916) 341-5873	FAX NUMBER (Optional) (916) 341-5808
		E-MAIL ADDRESS (Optional) bacons@cwpswrcb.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.	
SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE FEB - 6 2002
TYPED NAME AND TITLE OF SIGNATORY Celeste Cantu, Executive Director	

STATE WATER RESOURCES CONTROL BOARD

SPECIFIC LANGUAGE

(1) Amend Section 2712(e) to read as follows:

(e) The local agency shall not renew an underground storage tank permit unless the underground storage tank has been inspected by the local agency or a special inspector within the previous ~~three years~~ 12 months and the inspection verified that the underground storage tank complied with the provisions of Article 3 or 4, as applicable, and with all existing permit conditions. The inspection shall be conducted as specified in the appropriate subsection of Chapter 6.7 of Division 20 of the Health and Safety Code. If the inspection indicated noncompliance then the local agency shall verify by a follow-up inspection that all required corrections have been implemented before renewing the permit.

Authority: Sections 25299.3 and 25299.7, Health and Safety Code.

Reference: Sections 25284, 25285, 25286, 25288, 25289, 25293 and 25294, Health and Safety Code; 40 CFR 280.31(d), 280.33(f), 280.45 and 281.32(e).

STATE WATER RESOURCES CONTROL BOARD

Section affected: Title 23, section 2712, subdivision (e)

Justification for Changes Without Regulatory Effect

Section 25288 of the Health and Safety Code was recently amended by Senate Bill 989 (Stats. 1999, Ch. 812) to change the frequency with which a local agency must inspect underground storage tanks (USTs) within its jurisdiction from triennially to annually. Subdivision (e) of title 23 provides that the local agency shall not renew a UST permit unless the UST has been inspected by the local agency within the previous three years. This condition of renewal is based on the time frame for UST inspections set forth in Health and Safety Code section 25288. Therefore, section 2712, as currently written, is inconsistent with and superseded by section 25288 of the Health and Safety Code, and the SWRCB has no discretion to adopt a change which differs in substance from the one chosen.



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Executive Office

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P.O. Box 100, Sacramento, California 95812-0100
(916) 341-5615 ♦ FAX (916) 341-5621 ♦ www.swrcb.ca.gov



Gray Davis
Governor

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.swrcb.ca.gov.

TO: David B. Judson
Deputy Director and Chief Counsel
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, California 95814-4602

FROM: 
Celeste Cantú
Executive Director
EXECUTIVE OFFICE

DATE: FEB - 6 2002

SUBJECT: PROPOSED SECTION 100 CHANGE

Enclosed please find the required documents for filing a "change without regulatory effect," pursuant to section 100, Title 1 California Code of Regulations.

- Form 400: one completed, signed and dated original plus 6 copies;
- Text of change without regulatory effect (section 2712 of Title 23 of the California Code of Regulations);
- Explanatory statement as to why the change meets the criteria of Section 100 (a) (6) (A) and (B) and is, therefore, a change without regulatory effect.

If you have questions, or additional material is needed, please call Scott Bacon at (916) 341-5873.

Attachments